

IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 204 OF 2017  
IN  
WRIT PETITION NO. 1161 OF 2016

SHAILENDRA SHAMRAO BHAVSAR  
VERSUS  
PRIYADARSHANI SAHAKARI SOOTGIRNI LTD.

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Advocate for Applicant : Shri Dankh Sachin V.  
Advocate for Respondent : Shri Patil S.S.

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CORAM : RAVINDRA V. GHUGE, J.  
Dated: January 24, 2017

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PER COURT :-

1. Heard learned Advocates for the respective parties. The representative of the Management is present in the Court.

2. By oral judgment dated 15.9.2016, Writ Petition No. 1161 of 2016, filed by the applicant / workman was partly allowed with the following directions:-

*“ 6. In the light of the above, the impugned judgment of the Industrial Court dated 18/09/2015 and the judgment of the Labour Court dated 05/08/2015 is modified by consent and the same shall be replaced with the following order :-*

*[a] Complaint (ULP) No.45/2012 is partly allowed by granting reinstatement with continuity of service from 10/10/2012 to the petitioner.*

- [b] He shall be deprived of back wages from 10/10/2012 till 30/09/2016.*
- [c] He would stand reinstated w.e.f. 01/10/2016.*
- [d] He would be deprived of 3 (three) annual increments.*
- [e] His status as a "Clerk" would be maintained while deploying him in any such department of the respondent/Organization, where his services as a "Clerk" could be utilized.*
- [f] He shall be kept away from the Account/Cash Sections.*
- [g] In the event, considering his past service and the misconduct proved against him, he is entitled to any promotion, the respondent would consider his case strictly under its rules and service conditions.*
- [h] The petitioner shall be precluded from raising any issue with regard to his dismissal dated 10/10/2012."*

3. Grievance of the workman is that after he reported for duties, he was reinstated on 4.10.2016 and forthwith transferred to Mumbai on the ground that he could be deployed in any such department of the establishment, where he could work as a Clerk and could be kept away from the Accounts / Cash Section.

4. After this matter was heard for sometime on the last date, I expressed my prima facie opinion that the management was attempting to victimize the workman as he was being shunted to Mumbai despite the directions reproduced above.

5. Shri Patil, learned Advocate for the establishment has frankly

stated on instructions that that the workman would be reinstated in the personnel department of the establishment at Shirpur and he can report for duties, even tomorrow. He, however, submits that the applicant had filed leave applications and was not available from 8.10.2016 till today. Shri Dankh submits that he had no option but to file the leave application since he could not settle himself in Mumbai with the amount of salary that the establishment was paying him. Similarly, they had tried to victimize him.

6. Considering the above and the statement recorded, this Civil Application is allowed.

7. The applicant shall report for duties on 25.1.2017 or 27.1.2017 at the Shirpur establishment of the respondent in the Personnel Department and shall discharge his duties. In so far as he being away from work in the light of the above, the respondent / establishment shall grant leave to the extent it is admissible, considering the accumulated leave for the year 2016 and the year 2017 and shall treat him on leave. In the event the leave available is exhausted, the remainder period till he joins duties at Shirpur would be considered as leave with wages.

( RAVINDRA V. GHUGE, J. )

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akl/d